S.B.CIVIL TRANSFER PETITION NO.2/2006

Smt. Hemlata
vs.
Ramavtaar and others.

DATE OF ORDER ::: 18.7.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mrs. Deepika Vyas, for the petitioner.
Mr. Chaitanya Gahlot, for the respondent no.1.

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Heard learned counsel for the parties.

The petitioner, wife of respondent no.1, has moved this application for transfer of the Divorce Petition No.31/2005 filed by the respondent under Section 13 of the Hindu Marriage Act and which is pending in the Court of Additional District Judge, Ratangarh Camp Sujangarh.

According to the petitioner, she has filed a criminal case under Sections 498A and 406 IPC at Merta City as back as on 16.2.2002 but because of the pressure of the community, the matter was settled once between the parties. Thereafter, she filed another criminal complaint under Section 498A IPC and one petition under Section 125 Cr.P.C. which both are pending in the Court at Merta. It is submitted that the respondent no.1 is coming to attend both

these cases at Merta. According to the petitioner her father had already died and there is no body to accompany her to travel to Sujangarh and contest the case. Therefore, it is prayed that the divorce petition filed by the respondent no.1 be transferred to the Court at Merta.

Learned counsel for the respondent vehemently submitted that the respondent no.1 has reasonable apprehension from the persons of the petitioner. It is also submitted that the petitioner has initiated false criminal case against the respondent no.1. The respondent no.1 also levelled several allegations in his reply.

I have considered the rival submissions and perused the facts of the case.

It appears that due to strained relations, the petitioner cannot go to the Court at Ratangarh or Sujangarh where the divorce petition filed by the respondent no.1 is pending. It appears that the distance between the two places is too much and the petitioner is a young lady and she has no person to accompany her so as to contest the case whereas the respondent no.1 cannot have that much of difference if the case is transferred at Merta.

So far as the apprehension of the respondent no.1 is concerned, he can take help of the court as well as police but the ends of justice will be served only when the petitioner is given opportunity to contest the case by transferring the petition filed by respondent no.1 to Merta.

In view of the above, this transfer petition is allowed, the Petition no.31/2005 (Ramavtaar vs. Smt. Hemlata) filed by the respondent no.1 pending in the Court of Additional District Judge, Ratangarh Camp Sujangarh is hereby withdrawn and is transferred to the Court of District Judge, Merta for deciding the same in accordance with law.

Both the parties are directed to remain present before the Court of District Judge, Merta on 21.8.2006.

(PRAKASH TATIA), J.

S.Phophaliya